

Friday, January 2, 2009

Division Two

A115311 – The People, v. Simon Faeed Ranteesi.

The judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J.
(Not for Publication.)

Monday, January 05, 2009

Division One

A120326 – The People, v. Demetrius Spearman.

The judgment is affirmed. Flinn, J.¹ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A119346 – Mercury Insurance Company, v. David Douglas Pearson.

By The Court: The opinion in the above-entitled matter filed on December 4, 20008, was not certified for publication in the official Reports. After the court's review of requests under California Rules of Court, rule 8.1120, and good cause established under rule 8.1105, it is hereby ordered that the opinion should be published in the Official Reports. Margulies, Acting PJ.
(Certified for Publication.)

Division Five

A119527 – Nicholas and Sharon Honchariw, v. Olympia Funiding, Inc.

The judgment is affirmed. Costs on appeal are awarded to respondent Olympia. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, January 6, 2009

Division One

¹ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 6, 2009(Continued)

**A122159 – In re T.K.L.G., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services, v. T.G.**

The judgment is affirmed. Flinn, J.² We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A121064 – In re T.F., a Person Coming Under the Juvenile Court Law. The People,
v. T.F.**

The order appealed from is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A122076 – In re J.D., a Person Coming Under the Juvenile Court Law. Alameda
Country Social Services Agency, v. D.D.**

The order terminating parental rights is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A118574 – The People, v. Curtis Wright.

The judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A120613 and A123062 – The People, v. Willie Louis Thompson et al.

By The Court: Upon due consideration of appellant Thompson's motion to consolidate related appeals, the motion is granted and the above-referenced appeals are consolidated for purposes of briefing, oral argument (if any), and decision. Both case numbers shall appear on all documents filed in this court. Appellants' consolidated opening briefs shall be due February 17, 2009. McGuiness, P.J.

Division Four

**A118710 – Michael B. Montgomery, v. Brazzi Butterworth & Corell International et
al.**

² Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 6, 2009(Continued)

The order awarding respondents their attorney fees and costs is affirmed. Respondents are awarded their costs on appeal, including attorney fees for this appeal, in an amount to be determined by the court. Ruvo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A115717 – The People, v. Scott Emerson Felix.

By The Court: It is ordered that the opinion filed herein on December 16, 2008, be modified as follows: (See Order). There is no change in the judgment. Jones, P.J. (Certified for Partial Publication.)

A115717 – The People, v. Scott Emerson Felix.

By The Court: On December 29, 2008, Attorney General Edmund G. Brown Jr. requested that part III of the opinion filed herein on December 16, 2008, that was certified for partial publication in the Official Reports be published. For good cause it now appears that part III of the opinion should be published in the official Reports and it is so ordered. Jones, P.J. (Certified for Partial Publication.)

Wednesday, December 7, 2009

Division Five

A118858 – In re J.P., a Person Coming Under the Juvenile Court Law. The People, v. J.P.

The judgment of the juvenile court (order denying motion to set aside sex offender registration requirement) is reversed. The case is remanded with directions that the court enter a new order relieving appellant from the requirement that he register as a sex offender under sections 290 and 290.008. Needham, J., We Concur: Simons, acting P.J., Dondero, J.³ (Not for Publication.)

³ Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 8, 2009

Division One

A121235 – City of Richmond, v. Walter Rogelio Hernandez.

The order is affirmed. Flinn, J.⁴ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A116691 – The People, v. Robert Joseph Rodriguez.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

Friday, June 9, 2008

Division One

A118000 – The People, v. Jade Emily Anderson.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A122897 – K.D., v. The Superior Court of Mendocino County, Mendocino County Department of Social Services et al, R.P.I.

The request for stay is denied and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd v. Superior Court* (1990) 50 Cal. 3d 1012, 1024.) The decision is final in this court immediately. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.⁵ (Not for Publication.)

Division Three

A120144 – Antonio Giusto, v. City of San Mateo Personnel Board, City of San Mateo.

⁴ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

⁵ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, June 9, 2008(Continued)

By The Court: The petition for rehearing is denied. McGuiness, P.J.

A121105 – CHB American Bank, v. Chong Soo Kim et al.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A121519 – The People, v. Robert Cuevas Moran, Jr.

Judgment affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A117286 – The People, v. Jerry Lariosa Cabonce.

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

Monday, January 12, 2008

Division Two

A120561 – In re Vincent W., A Person Coming Under the Juvenile Court law. The People, v. Vincent W.

The juvenile court's order is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Five

A120908 – In re U.R., a Person Coming Under the Juvenile Court Law.

A121454 – Solano County Health & Social Services Department, v. D.R. et al.

The judgment terminating parental rights is reversed and the case is remanded to the juvenile court with directions to order the Department to comply with the notice provisions of the ICWA. If, after proper notice, the court finds that the dependent minor is an Indian child, the

Monday, January 12, 2008

juvenile court shall proceed in conformity with all provisions of the ICWA. If on the other hand, the court finds that the minor is not an Indian child, the judgment terminating parental rights shall be reinstated. Simons, Acting P.J., We Concur: Needham, J., Stevens, J.⁶ (Not for Publication.)

A118436 – Bank of America, v. State of California.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Dondero, J.⁷ (Not for Publication.)

Tuesday, January 13, 2009

Division One

A119094 – The People, v. Arnell Mercurio.

The judgment of conviction is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn.⁸ (Not for Publication.)

Division Two

A119424 – Johnnie Mae Washington, v. Linda Harrington, as Administrator, etc., et al.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A119003 – In re Floyd L. Whitehead Revocable Living Trust. Damen L. Whitehead, v. Lillian M. Whitehead.

⁶ Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

⁷ Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

⁸ Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 13, 2009(Continued)

We reverse the probate court's order of August 27, 2007, which declined to set aside its orders, entered March 5, 2007, deeming appellant's objections waived and approving respondent's accounting. On remand, the probate court shall vacate its order of August 27, 2007; enter a new order granting appellant's motion to set aside its order of March 5, 2007; and set a hearing on the merits of appellant's objections to the accounting, filed March 2, 2007. Appellant's request that this case be assigned to a different judge on remand is denied as it is not supported by a showing that the interests of justice would best be served by such an order. (Code Civ. Proc., § 170.1, subd. (c).) Appellant shall recover his costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, January 13, 2009

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Marty Fredericks, Bailiff.

A115716 People
 v.
 Timothy Ernest Boone
Cause called. Patricia Littlefield teleargued for appellant Boone. John Vance argued for respondent. Cause submitted.

A120912 United States Fire Insurance
 v.
 Sheppard, Mullin, Richter & Hampton
Cause called. Bob Stumpf argued for appellant Sheppard. Larry Tabb argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A117955 People
 v.
 David Lawrence Dyke
Cause called. Jeff Kravitz argued for appellant Dyke. Christopher Grove argued for respondent. Cause submitted.

Court recessed at 10:38 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT, DIVISION FOUR

Tuesday, January 13, 2009

The court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Ricky Franklin, bailiff.

A115625 Guzik

v.

King

Cause called. Steven Finley argued on behalf of appellant Guzik. John Derrick argued on behalf of respondent King. Cause submitted.

At this point, Reardon, J. left the bench and Sepulveda, J. joined the bench. Argument continued before Ruvolo, P.J., Sepulveda, J. and Rivera, J.

A118361 People

v.

Posey

Cause called. Dennis Riordan argued on behalf of appellant Posey. Deputy Attorney General Aileen Bunney argued on behalf of respondent People of the State of California. Cause submitted.

At this point, Ruvolo, P.J. left the bench and Reardon, J. rejoined the bench. Argument continued before Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A118910 Ramirez, et al

& v.

A119761 City of Petaluma, et al

Cause called. Julia Lynch Bond argued on behalf of appellants City of Petaluma, et al. Richard Hicks argued on behalf of respondents Robert Ramirez, et al. Cause submitted.

Tuesday, January 13, 2009(Continued)

Division Five

A118677 – The People, v. Timothy Wayne Perry.

The trial court's judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A117503 – The People, v. Danny Alfred Fontana.

The judgment is reversed. Needham, J., We Concur: Jones, P.J., Dondero, J.⁹ (Not for Publication.)

Wednesday, January 14, 2008

Division One

A120899 – In re K.C., a Person Coming Under the Juvenile Court Law. The People, v. K.C.

The gang condition is modified as follows: "Do not wear, display, use, possess, write, paint, or draw by any means any insignia, emblem, button, badge, cap, hat scarf, bandana or any object or article of clothing that you know, or that a probation officer informs you, is evidence of affiliation, association or membership in any street gang, nor associate with anyone who, to your knowledge or information, does. For purposes of these conditions, the word gang means a criminal street gang as defined in Penal Code section 186.22, subdivisions (e) and (f)." As so modified, the judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.¹⁰ (Not for Publication.)

Division Two

A118439 – The People, v. Pedro Ayala.

The judgment is affirmed. Kline, P.J., I Concur: Richman, J. (Not for Publication.)
***People v. Ayala*, No. A118439 – Concurring opinion of Haerle, J.**

⁹ Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

¹⁰ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 14, 2008(Continued)

I concur in the result of the opinion and in most of the analysis leading to that result. I do not, however, agree with the majority that the prosecutor committed misconduct during his closing argument regarding the impact of appellant's offense on Ms. Flowerday. Contrary to the majority, I believe that, under the standards set forth by our supreme Court in *People v. Dennie* (1998) 17 Cal.4th 468, 518, those statements constituted permissible comment. Haerle, J. (Not for Publication.)

A119957 – Intra-America Foundation & Drilling Co., Inc., v. R.M. Harris Company, Inc., et al.

The judgment is modified to strike the award of attorney's fees to Caltrans. As modified, the judgment is affirmed. Harris and the Sureties are awarded their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(2).) In the interests of justice, Caltrans and IAFD are to bear their own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).) Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A118186 – The People, v. Lee David Harbert.

The judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Certified for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 14, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

- A120706 The People,
 v.
 E.W.
Cause called and argued by Richard J. Krech, counsel for appellant, and Christina Vom Saal, counsel for respondent. Cause ordered submitted.
- A114919 Kun Sam Kim, et al.
 v.
 City of Oakland;
 Jacqueline Howell, et al.
- A114855 Rental Housing Association of Northern Alameda County, et al.,
 v.
 City of Oakland;
 Jacqueline Howell, et al.
Causes called and argued by Steven S. Rosenthal, counsel for appellants/respondents Kim; and Myron Moskovitz and Richard F. Illgen, counsel for respondent/appellant City of Oakland. Cause ordered submitted.
- A113780 King & Kelleher,
A115085 v.
 Kenneth R. Carpenter, et al.
Cause called and argued by James Braden, counsel for appellants, and Timothy J. Halloran, counsel for respondent. Cause ordered submitted.
- At this point in the proceedings, Pollak, J. left the courtroom and Jenkins, J. joined the bench.
- A119968 In re Hayes on Habeas Corpus.
Cause called and argued by Chris R. Redburn, counsel for petitioner, and Amanda J. Murray, counsel for real party in interest. Cause ordered submitted.
- At this point in the proceedings, McGuiness, P.J. left the courtroom and Pollak, J. rejoined the bench, and presided over the remainder of the calendar.

- A121006 The People,
 v.
 M.T..
 Cause called and argued by Julia Freis, counsel for appellant, and Ronald Niver,
 counsel for respondent. Cause ordered submitted.
- A120740 Fusion Bond Coating Systems, Inc.
 v.
 Regional Steel Coproration.
 Cause called and argued by Paul D. Herbert, counsel for appellant, and Paul S.
 Leevan, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, January 14, 2008(Continued)

Division Four

A121705 – In re M.S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services, Agency, v. D.S.

The order appealed from is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, January 15, 2008

Division Four

A119768 – The People, v. Manuel Christopher Luna.

The judgment is reversed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A123073 – M.C., v. The Superior Court of San Francisco County, San Francisco Department of Human Services, R.P.I.

The petition is denied on the merits. (§ 366.26, subd. (l)(1)(C); Cal. Rules of Court, rules 8.452, 5.585(b); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 8.264(b)(3).) The request for a stay of February 25, 2009, hearing is denied. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A120676 – Ricardo Paez, v. Service Employees International Union, Local 1021.

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Dondero, J.¹¹ (Not for Publication.)

A119838 – Sam Hirbod et al., v. Farid Akbarpour et al.

We construe the September 25, 2007 order to dismiss the Fourth Amended Cross-Complaint only as to the claims against Mission-Bishop Real Estate, Inc., Mike Hoady, Ownes Hoady, and Alan Bishop. So construed, the order is affirmed. The October 3, 2007 judgment is

¹¹ Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 15, 2008(Continued)

also affirmed. Appellants shall bear their own costs. Stevens, J.¹² We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, January 16, 2008

Division One

A120532 – Robert Eder et al., v. California Department of Fish and Game et al.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.¹³
(Certified for Publication.)

¹² Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five assigned by the Chief Justice pursuant to art. VI, § 6 of the California Constitution.

¹³ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, January 16, 2009

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Flinn, Justice Pro Tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Raquel Arellano, Deputy Clerk, and CHP Officer Ricky Franklin, Bailiff.

- A120517 The People,
 v.
 Porfirio Albert Medina.
Cause called and argued by Rudolph Kraft, counsel for appellants via teleconferencing, and Bridget Billeter, counsel for respondent. Cause ordered submitted.
- A121042 Nathaniel Greer,
 v.
 Kellye Denson.
Cause called and argued by Kellye Denson, appellant in propria persona, and Stuart Willis, counsel for respondent. Cause ordered submitted.
- A119904 Shari Taylor,
 v.
 San Francisco Unified School District, et al.
Cause called and argued by Conor Moore, counsel for appellant, Tim Travelstead, counsel for respondent San Francisco School District, and Donald Eichhorn, counsel for Edison Schools, Inc. Cause ordered submitted.
- A120084 Leo Bryant et al.,
 v.
 Sara Lee Corporation, et al.
Cause called and argued by Angela Alioto, counsel for appellants, Janine Simerly, counsel for respondent Sara Lee Corporation, and Michael Foster, counsel for respondent Bob Wyche. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Friday, January 16, 2009

The Court convened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Margulies, Justice, Flinn, Justice Pro Tem, judge of Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution, Raquel Arellano, Deputy Clerk, and CHP Officer Stephen Umeki, Bailiff.

- A118187 The People,
 v.
 Joe Manuel Gonzales.
Cause called and argued by David Cohen, counsel for appellant, and Brent Wilner, counsel for respondent. Cause ordered submitted.
- A121078 Gwen Row-Lee Sykes,
 v.
 Brenda Sykes.
Cause called and argued by Colleen Van Egmond, counsel for appellant, and Maxwell Njelita, counsel for respondent. Cause ordered submitted.
- A120493 Leah Dible,
 v.
 Haight Ashbury Free Clinics.
Cause called and argued by Julian Latowski, counsel for appellant via teleconferencing, and Marguerite Meade, counsel for respondent. Cause ordered submitted.
- A120072 National Union Fire Insurance Company of Pittsburgh Pa,
 v.
 Cambridge Intergrated Services Group Inc.
Cause called and argued by Curt Cutting, counsel for appellant, and Holly Fujie, counsel for respondent. Cause ordered submitted.

Court adjourned.

Friday, January 16, 2008(Continued)

Division Two

A118315 – The People, v. Yvette Hollie.

The judgment is reversed and the matter remanded for the purpose of resentencing consistent with this opinion. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A120706 – In re E.W., a Person Coming Under the Juvenile Court Law. The People, v. E.W.

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

A121619 – In re N.B., et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. William B., et al.

The orders terminating Guadalupe's and William's parental rights are reversed and the matter is remanded to the juvenile court for further proceedings not inconsistent with this opinion. Reardon, J., We Concur: Ruvo, P.J., Sepulveda, J. (Not for Publication.)

A121284 – Margie McRae, v. Josh Richman et al.

The trial court did not abuse its discretion in awarding attorney fees and costs in this case. Accordingly, the attorney fee award is affirmed. Reardon, J., We Concur: Ruvo, P.J., Rivera, J. (Not for Publication.)

A120626 – The People, v. Michele Teresa Mussen.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvo, P.J., Rivera, J. (Not for Publication.)

Division Five

A120522 – Martha DeCamp, v. Broad Street Investment Management et al.

Friday, January 16, 2008(Continued)

The judgment is affirmed. Defendants are awarded their costs on appeal. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

A120309 – The People, v. Tyson Robinson.

In Case No. SC144613, the \$1000 fines imposed under sections 1202.4 and 1202.45 are modified to \$300 each. The judgment is further modified to award appellant on additional day of actual custody presentence credit, resulting in an award of 260 days actual time and 39 days of conduct credit, for a total of 299 days of presentence credit. The abstract of judgment shall be modified to reflect these changes and shall additionally be corrected to reflect a sentence of 16 months in Case No. SC144613 rather than a sentence of 16 years. As so modified, the judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Stevens, J.¹⁴ (Not for Publication.)

Tuesday, January 20, 2009

Division One

A120632 – The People, v. Henry Charles Johnson, Jr.

The judgment is affirmed. Flinn, J.¹⁵ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A120277 – Rebecca Liceaga, v. Debt Recovery Solutions.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A119663 – The People, v. Phillip Kohler.

The judgment is affirmed. Flinn, J.¹⁶ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

¹⁴ Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

¹⁵ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

¹⁶ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, January 20, 2009

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer Singh and I. Santos, Deputy Clerk.

- A122667 Iqbal Randhawa,
 v.
 The Superior Court of Solano County;
 The People, RPI.
 Cause called and argued by Daniel James Healy, counsel for appellant, and
 Donna Provenzano, Deputy Attorney General, counsel for real party in interest.
 Cause ordered submitted.
- A121449 The People,
 v.
 Christopher O'Kelley.
 Cause called and argued by Matthew Alexander Siroka, counsel for appellant, and
 Christopher Grove, Deputy Attorney General, counsel for respondent. Cause
 ordered submitted.
- A120697 Nissar Quraishi et al.,
 v.
 Delta Pools.
 Cause called and argued by Spencer Freeman Smith, counsel for appellants.
 Deputy Clerk I. Santos called Alex S. Friedland, counsel for respondent, via
 telephone, but counsel was unavailable. Counsel for respondent submits on his
 briefs that have been filed with the court. Cause ordered submitted.

Court Adjourned.

Tuesday, January 20, 2009(Continued)

Division Five

A122090 – In re A.P., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. R.P.

The judgment terminating parental rights is affirmed. Simons, Acting P.J., We Concur: Needham, J., Stevens, J.¹⁷ (Not for Publication.)

Wednesday, January 21, 2009

Division One

A119953 – San Francisco Bay Area Rapid Transit District, v. Fair Employment and Housing Commission.

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.¹⁸ (Not for Publication.)

A116847, A118116 – Anthony Marin et al., Costco Wholesale Corporation.

By The Court: It is ordered that the opinion filed herein on December 23, 2008, be modified as follows: (See Order.) The petition for rehearing is denied. Marchiano, P.J. (Certified for Publication.)

Division Two

A118176 – The People, v. Hilary Cecil Young.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

¹⁷ Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

¹⁸ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, January 21, 2009

The Court reconvened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Officer Smith and S. Wheeler, Deputy Clerk.

- A118309 The People,
 v.
 Danell Pratt.
Cause called and argued by Maria Morga, Deputy State Public Defender, counsel for appellant, and Brent W. Wilner, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A117342 California Casualty Insurance Company,
 v.
 Beverly Quinney.
Cause called and argued by Stephen John Mackey, counsel for appellant, and David Charles Werner and Blane Allyn Smith, counsel for respondent. Cause ordered submitted.
- A120644 In re the Marriage of Beverly Padgett and Robert J. Padgett.
 Beverly Padgett,
 v.
 Robert J. Padgett;
 Donna Little, Real Party in Interest.
Cause called and argued by Charles Bird, counsel for appellant and real party in interest Donna Little, and Ryan Kent, counsel for respondent Beverly Padgett. Cause ordered submitted.
- A121346 Deborah Norton et al.
 v.
 Glenn Howell et al.
Cause called and argued by Corey Evans, counsel for appellants, and Christina Jayoung Ro, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, January 21, 2009

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Umeki and S. Wheeler, Deputy Clerk.

At this point of the proceedings, Presiding Justice Kline announces that the panel for the first case will consist of himself, Justice Haerle, and Justice Lambden. He also announces that the panel for the second case will be Justice Haerle, Justice Lambden, and Justice Richman.

A116837 The People,
 v.
 Jason Joseph Gruber.
Cause called and argued by Charles Bourdon, counsel for appellant, and Eric D. Share, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Presiding Justice Kline leaves the bench.

A120828 Dominique Black,
 v.
 William M. Lukens et al.
Cause called and argued by appellant Dominique Black, in propria persona, and Guy Caladine, counsel for respondent William M. Lukens, and Leah Anne Plaskin, counsel for respondent Richard Glickman. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, January 21, 2009(Continued)

Division Three

A113780, A115085 – King & Kelleher, LLP, v. Kenneth R. Carpenter et al.

The judgment is affirmed. King is to recover costs on appeal pursuant to California Rules of Court, rule 8.278. Should King claim fees and costs associated with this appeal pursuant to Business and Professions Code section 6204, subdivision (d), the claim shall be presented in the first instance to the superior court; we express no opinion as to the potential merits thereof. Siggins, J., We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A121006 – In re M.T., a Person Coming Under the Juvenile Court Law. The People, v. M.T.

The matter is remanded with directions to amend the juvenile court minutes to reflect that the knife possession offense was a misdemeanor. With that amendment, the judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

A122022 – Jorge A. Pineda, v. Bank of America, N.A.

By The Court: On the court's own motion, rehearing is GRANTED. Pollak, J., Acting P.J.

A122022 – Jorge A. Pineda, v. Bank of America, N.A.

The judgment is affirmed. Defendant is to recover its costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Certified for Publication.)

Division Four

A121534 – The People, v. William Carl Cuneo.

The judgment is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A121911 – The People, v. Reginald Edward Ellis.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Wednesday, January 21, 2009(Continued)

A120147/A121049 – Irish Beach Clusterhomes Association Board of Governors et al., v. Michael Farrell et al.

The judgment is void to the extent it is in favor of or against the “Irish Beach Clusterhomes Association Board of Governors” and “William Moores, President.” The order declining to award fees is affirmed. Jones, P.J., We Concur: Needham, J., Dondero, J.¹⁹ (Not for Publication.)

A118686 – Linh Lai, v. Valery Dobrushin.

The order is affirmed. Simons, J., We Concur: Jones, P.J., Dondero, J.²⁰ (Not for Publication.)

Thursday, January 22, 2009

Division One

A112701, A115566, A116796, A118009, and A118262 – In re the Marriage of Joshua Sakov and Ester Adut. Joshua Sakov, v. Ester Adut.

The judgments and orders are affirmed. Swager, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A120220 – Legal Services for Prisoners with Children et al., v. Debra Bowen, as Secretary of State, etc., et al.

The petition for writ of mandate is denied. Richman, J., We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A120223 – In re David Barker, on Habeas Corpus.

The petition is granted. A writ of habeas corpus will issue vacating the Governor’s decision to reverse the Board’s grant of parole and reinstating the Board’s parole release order.

¹⁹ Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²⁰ Judge of the Superior Court of San Francisco City and County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 22, 2009(Continued)

This opinion shall be final as to this court immediately. (*In re Scott, supra*, 133 Cal. App.4th 573, 604; Cal. Rules of Court, rule 8.387(b)(3)(A).) Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A122350 – The People, v. Mynor D. Aguirre.

The judgment and sentence imposed are affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A119922 – The People, v. Albert Louis Camacho.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A122312 – The People, v. Ryan Keith Gentry.

We have reviewed the entire record and find no arguable issues on appeal. Substantial evidence in the form of two out of three expert opinions supported the trial court's conclusion that appellant was competent to stand trial. We note that pursuant to *People v. Chambers* (1998) 65 Cal.App.4th 819, the trial court's subsequent modification of its judgment to reduce both the restitution fine imposed under Penal Code section 1202.4, subdivision (b), and the stayed parole revocation fine pursuant to Penal Code section 1202.45, makes it unnecessary for us to modify the judgment to reflect that the restitution fine survives revocation of probation and that the imposition of a second restitution fine upon revocation of probation would have been unauthorized. Accordingly, no issues is presented as to imposition of such fine and the amended judgment if affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A123222 – Skye Nickell, v. Wayne Cottrell et al.

The appeal is dismissed. Respondents are awarded their costs on appeal. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

Division Four

A118361 – The People, v. Michael Scott Posey.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Thursday, January 22, 2009(Continued)

A120530 – Michael Christoph Kreutzer, v. City and County of San Francisco.

By The Court: We hereby vacate our January 8, 2009 order in this case, and instead order as follows: (See Order.) In the interests of justice, the parties shall each bear their own costs on this appeal. The City's petition for rehearing, filed January 14, 2009, is DENIED. Reardon, Acting P.J.

A119768 – The People, v. Manuel Christopher Luna.

By The Court: On the court's own motion, this court's January 15, 2009 opinion is hereby certified for publication. The Reporter of Decisions is ordered to publish said opinion in the Official Reports. Ruvolo, P.J. (Certified for Publication.)

Division Five

A122717 – The People, v. Beal Xavier Hickman.

The judgment is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A122349 – The People, v. Britton Leonard Azbill, Jr.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Stevens, J.²¹ (Not for Publication.)

A122649 – In re L.H., a Person Coming Under the Juvenile Court Law. The People, v. L.H.

The disposition is affirmed. Jones, P.J., We Concur: Simons, J., Stevens, J.²² Not for Publication.)

A121369 – The People, v. Jorge Cruz.

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Stevens, J.²³ (Not for Publication.)

²¹ Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²² Retired Associate Justice of the Court of Appeal, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²³ Retired Associate Justice of the Court of Appeal, Division Five assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 22, 2009(Continued)

A120988 – The People, v. Thomas Turner.

The appeal is dismissed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Friday, January 23, 2009

Division One

A120795 – In re S.B., et al., Persons Coming Under the Juvenile Court Law. Napa County Department of Health and Human Services, v. Rebecca O., et al.

The orders appealed from are affirmed. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.²⁴

Division Two

A119783 – Ana Petero, v. Contra Costa Community College District et al.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A116052 – The People, v. John Henry Winters.

The judgment is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A120450 – In re M.R., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. G.R. et al.

The judgment terminating parental rights is affirmed. Pollak, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

²⁴ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, January 23, 2009(Continued)

Division Four

A122689 – In re T.H., a Person Coming Under the Juvenile Court Law. The People, v. T.H.

The orders appealed from are affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J.
(Not for Publication.)

Division Five

A120718 – The People, v. Anthony Payne.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Stevens, J.²⁵
(Not for Publication.)

A121037 – The People, v. Christopher Shane Cates.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Dondero, J.²⁶ (Certified for Publication.)

²⁵ Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²⁶ Judge of the Superior Court of the City and County of San Francisco, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Friday, January 23, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Stevens, J,* and Eric F. Cyman, Deputy Clerk.

A117625 Roy Poole,
v.
Doris B. Easley,
Cause called and argued by Malcolm Leader-Picone, counsel for appellant, and by Joel Belway, counsel for respondent. Cause ordered submitted.

A119750 The People,
v.
Brian James Corsaut,
Cause called and argued by David D. Martin, counsel for appellant, and by Mark Howell, counsel for respondent. Cause ordered submitted.

A121542 The People,
v.
G.R.,
Cause called and argued by John Tighe, counsel for appellant, and by Michael Banister, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Stevens entered.

A121430 The People,
v.
Mary Elizabeth Poteate,
Cause called and argued by Eleanor M. Kraft, counsel for appellant, and by Michael Banister, counsel for respondent. Cause ordered submitted.

A120531 Certified Coatings of California,
v.
Shimmick Construction et al.,
Cause called and argued by Randall Smith, counsel for appellants, and by Glenn Dassoff, counsel for respondent. Cause ordered submitted.

A119925 The People,
v.
Gena Leanne Ayala,
Cause called and argued by Richard Joseph Krech, counsel for appellant, and by Sharon
Wooden, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Simons left the bench and Justice Needham entered.

A118803 The People,
v.
Robert Alan Girard,
Cause called and argued by John Francis McCabe II, counsel for appellant, and by Bridget
Billeter, counsel for respondent. Cause ordered submitted.

A121658 Theresa O'Guinn et al.,
v.
Port of Oakland,
Cause called and argued by Richard Rogers, counsel for appellant, and by F. Curt
Kirschner, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

A121010 Nahum Zilberberg,
v.
Stephen Wen,
Cause called and argued by Lyman Bedford, counsel for appellant, and by Thomas Trapani,
counsel for respondent. Cause ordered submitted.

A119890 Eric Conner,
A120106 v.
Janet Spitler et al.,
Consolidated Causes called and argued by Eric Conner, appellant, and by Brendan Dooley,
counsel for respondent. Causes ordered submitted.

A118693 Warren Havens,
v.
Marvin Brown,
Cause called and argued by Adam R. Bernstein, counsel appellant, and by Wayne Collins,
counsel for respondent. Causes ordered submitted.

Court adjourned at 2:05 p.m.

*Retired Justice, assigned by the Chief Justice pursuant to article VI, section 6 of the California
Constitution.

Monday, January 26, 2009

Division One

A120999 – In re T.W., a Person Coming Under the Juvenile Court Law. The People, v. T.W.

The jurisdictional and dispositional orders are affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.²⁷ (Not for Publication.)

A122046 – The People, v. David Albert Thompson.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.²⁸ (Not for Publication.)

A120493 – Leah Dible, v. Haight Ashbury Free Clinics et al.

The judgment in favor of defendants is affirmed. Flinn, J.²⁹ We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

A121617 – In re Marvin F. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services, v. Jacqueline F.

The order terminating parental rights is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.³⁰ (Not for Publication.)

Division Two

A121335 – The People, v. Santiago Maciel.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

²⁷ Retired judge of the Marin Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²⁸ Retired judge of the Marin Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

²⁹ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

³⁰ Retired judge of the Marin Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 26, 2009(Continued)

A121160 – The People, v. Donald Eugene Clark.

The judgment is affirmed. Pollak, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

A120740 – Fusion Bond Coating Systems, Inc., v. Regional Steel Corporation.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A121201 – The People, v. Willie Ramsey.

In all other respects, the judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A121430 – The People, v. Mary E. Poteate.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Stevens, J.³¹ (Not for Publication.)

Tuesday, January 27, 2009

Division One

A122001 – In re K.B., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. D.B.

The order of the juvenile court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.³² (Not for Publication.)

³¹ Retired Associate Justice of the Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

³² Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 27, 2009(Continued)

A121550 - In re A.S., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. T.G.

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Flinn, J.³³ (Not for Publication.)

Division Two

A117889, A119009 – In re the Marriage of Meagher and Maleki. Ann Marie Meagher, v. Malekpour Maleki.

The judgment is affirmed. The parties are to bear their own costs on appeal. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A110036 – The People, v. Vilma Peraza-Williams.

The judgment is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A119244 – The People, v. Renaldo D. Dominguez.

Consistent with the opinions stated herein, this matter is remanded to the trial court for further proceedings with respect to imposition of the fine pursuant to section 290.3. In all other regards, the judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

A121749 – In re J.R., a Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. J.C.R.

The exit orders are affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A119968 – In re William Robert Hayes, on Habeas Corpus.

For the reasons stated above, we conclude the Board has not articulated any facts demonstrating that petitioner's release would pose a current danger. Consequently, the Board is directed to vacate its April 26, 2007, order denying parole, and, on remand, to reconsider this

³³ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 27, 2009(Continued)

case in light of *Lawrence/Shaputis* and this opinion. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A119505 – In re Lance Eric Wright, on Habeas Corpus.

The appeal is dismissed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A118261 – n re R.B., a Person Coming Under the Juvenile Court Law. The People, v. R.B.

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A119942 – Fred Andy Ivey etc. et al., v. 370 Embarcadero W LLC.

The ruling denying defendant's special motion to strike is affirmed. Plaintiffs are awarded their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, January 27, 2009

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Annie Reasoner, Deputy Clerk; CHP Officer Stephen Umeki, bailiff.

A119040 People
 v.
 Brian Burkhart
Cause called. Marilyn Minger argued for appellant Burkhart. Deputy Attorney General Dorian Jung argued for respondent People of the State of California.
Cause submitted.

At this point, Rivera, J. left the bench and Reardon, J. joined the bench. Argument resumed before Ruvolo, P.J., Reardon, J. and Sepulveda, J.

A116792 People of the State of California
 ex rel Edmund G. Brown, Jr., et al
 v.
 Tri-Union Seafoods, et al
Cause called. Deputy Attorney General Susan Fiering argued for appellant State of California. Forrest Hainline, III argued for respondents Tri-Union Seafoods, et al. Cause submitted.

A122162 In re the Marriage of David Dellaria and Elizabeth Blickman
 David Dellaria
 v.
 Elizabeth Blickman
Cause called. Bernard Wolf argued for appellant Dellaria. Garrett Dailey argued for respondent Blickman. Cause submitted.

At this point, Sepulveda, J. left the bench and Rivera, J. rejoined the bench. Argument resumed before Ruvolo, P.J., Reardon, J. and Rivera, J.

A113035 Larisa Khazan, et al
and v.
A114369 Braynin and Chernoguz

Cause called. Robert Travis argued for appellants Vladislav and Biana Chernoguz. Matthew Mallett argued for appellants Felix and Vera Braynin. Arthur Brunwasser argued for respondents Larisa and Boris Khazan. Cause submitted.

Court adjourned at 11:32 a.m.

Tuesday, January 27, 2009(Continued)

Division Five

A117625 – Roy Poole, v. Doris B. Easley, et al.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

Wednesday, January 28, 2008

Division One

A123099 – T.W., v. The Superior Court of Alameda County, Alameda County Department of Social Services et al., R.P.I.

The request for stay is denied and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal. 4th 888, 894; *Bay Development, Ltd. V. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. Graham, J.³⁴ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A121042 – Nathaniel G., v. K.D.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.³⁵ (Not for Publication.)

A121668 – In re Y.A., a Person Coming Under the Juvenile Court Law. The People, v. Y.A.

The judgment of trial court is reversed as to the amount of restitution owed for the destroyed vehicles. The matter is remanded for the sole purpose of a new hearing to determine the replacement cost of the vehicles. Margulies, J., We Concur: Marchiano, P.J., Flinn,³⁶ (Not for Publication.)

Division Two

³⁴ Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

³⁵ Retired judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

³⁶ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A115939 – The People, v. Derrell L. Morgan.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A115509 – The People, v. Leon Seymour.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A121932 – In re D.C., a Person Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services, v. R.C.

The order is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 28, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Pollak, Acting P.J., Siggins, J., and Jenkins, J.; and F. Castuera, Deputy Clerk.

A120881 State Farm Mutual Automobile Insurance,
 v.
 Susan Ranft et al.,
Cause called and argued by Morgan C. Smith, counsel for appellants, and Mark Bonino, counsel for respondent. Cause ordered submitted.

A120821 In re R.L.
 The People,
 v.
 R.L.
Cause called and argued by Candace Chen, counsel for appellant, and Martin Kaye, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Jenkins, J. left the courtroom and McGuiness, P.J. joined the bench. McGuiness, P.J. presided the rest of the cases.

A116884 Steven Durand,
 v.
 SSA Terminals.
Cause called and argued by Frederick Baker, counsel for appellant/SSA Terminal, and Daniel U. Smith, counsel for respondent and cross-appellant Steven Durand. Cause ordered submitted.

At this point in the proceedings, Siggins, J. left the courtroom and Jenkins, J. joined the bench.

A120378 Brian P. Burns,
 v.
 The Neiman Marcus Group.
Cause called and argued by Daniel Mason, counsel for appellant, and Irene Walker, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Pollak, J. left the courtroom and Siggins, J. joined the bench.

CONTINUED

- A117887 Lloyd Cymrot et al.
 v.
 Dell Furano.
 Cause called and argued by David Phillips, counsel for appellant, and Steven Dillick,
 counsel for respondents and cross-appellants Lloyd Cymrot et al. Cause ordered
 submitted.
- A121854 The People,
 v.
 John Poland.
 Cause called and argued by Michelle Thompson, counsel for appellant, and William
 Kuimelis, counsel for respondent. Cause ordered submitted.
- A119265 Access Recovery Group Inc.,
 v.
 Kimberly Pinnick.
 Cause called and argued by Francis Lewis, counsel for appellant, and George Leal,
 counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, January 28, 2008(Continued)

Division Four

A115716 – The People, v. Timothy Ernest Boone.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A120253 – Yasmeen Tanzel, v. City of Richmond.

The trial court's order awarding \$43,410.20 in attorney fees for both trial and appellate work in *Tanzel I* is affirmed. The City is entitled to recover its costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Thursday, January 29, 2009

Division One

A119904 – Shari Taylor, v. San Francisco Unified School District et al.

Accordingly, the judgment is affirmed. Flinn, J.³⁷ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A121730 – In re M.B., et al., Persons Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, v. A.B.

Accordingly, the dispositional orders of the juvenile court that terminated jurisdiction, denied appellant reunification services, and granted exclusive custody of the minors to the mother are reversed. That part of the judgment that sustained the allegations of the dependency petition and declared the minors dependent children is affirmed. The case is remanded to the juvenile court for proceedings not inconsistent with the views expressed herein. Graham, J.³⁸ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

³⁷ Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

³⁸ Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 29, 2009(Continued)

A115826 – The People, v. James Lloyd Clites.

A116292 – The People, v. Mark Lewellyn Cox.

The judgments of convictions are reversed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A121553 – In re A.M. et al., Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. L.M.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A121991 – The People, v. Dennis Hawkins.

The trial court minutes of May 27, 2008 are corrected to reflect that the additional \$400 restitution fines pursuant to sections 1202.4 and 1202.45 are stricken; the original \$200 restitution fine is reinstated (§ 1202.4), and the parole restitution fine is reduced to \$200 (§ 1202.45). The abstract of judgment, filed May 30, 2008, is modified to so reflect. The trial court is directed to forward a certified copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation. So modified, the judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A121555 – In re C.M., a Person Coming Under the Juvenile Court Law. San Mateo County Department of Social Services, v. J.L.

The judgment is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A120181 – The People, v. Kevin F. Blood.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A123419 – Llyal Gordon, v. Philip Hassrick et al.

We hereby dismiss this appeal as untimely. Defendants shall recover their costs in connection with this motion to dismiss. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A116837 – The People, v. Jason Joseph Gruber.

Thursday, January 29, 2009(Continued)

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A122633 – The People, v. Victor T. Taylor.

The judgment is affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

A122552 – The People, v. Keith Oneil Hayes, Jr.

The abstract of judgment shall be amended to reflect corresponding \$400 fines under Penal Code sections 1202.4, subdivision (b), and 1202.45, in case Nos. 214729 and 234099. A copy of the amended abstract shall be forwarded to the Department of Corrections. In all other respects, the judgment is affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

A120266 – In re J.J., a Person Coming Under the Juvenile Court Law. The People, v. J.J.

A122318 – In re J.J., On Habeas Corpus.

The dispositional order shall be amended to strike the order continuing the previously imposed conditions of probation. The juvenile court shall send an amended commitment order to the Department of Juvenile Justice. In all other respects, the dispositional and commitment orders are affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A123358 – G.P., v. The Superior Court of Humboldt County, Humboldt County Department of Health and Human Services., R.P.I.

The petition for writ of mandate is denied on the merits. (§ 366.26, subd. (l); rules 8.452(i); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) The request for a stay of the March 2, 2009 hearing is denied. Our decision is final immediately. (Rule 8.264(b)(3).) Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A120525 – The People, v. Levarn Cavers.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Thursday, January 29, 2009(Continued)

Division Four

A121713 – Eric Moberg, v. City of South San Francisco et al.

The judgment is affirmed. Respondents are awarded their costs on appeal. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A121152 – The People, v. David M. Fuschak.

The judgment is affirmed. Stevens, J.³⁹ We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

A121658 – Theresa O’Guinn et al., v. Port of Oakland.

The summary judgment is affirmed. Costs on appeal are awarded to respondent. Needham, J., We Concur: Jones, P.J., Steven, J.⁴⁰ (Not for Publication.)

A123223 – M.A., v. The Superior Court of Humboldt County, Humboldt County Department of Health and Human Services, R.P.I.

The petition is denied on the merits. (§ 366.26, subd. (l); rule 8.452(i)(1).) The request for a stay of the .26 hearing, set for February 17, 2009, is denied, and our decision is final as to this court immediately (rule 8.264(b)). Simons, Acting P.J., We Concur: Needham, J., Stevens, J.⁴¹ (Not for Publication.)

A121542 – In re G.R., a Person Coming Under the Juvenile Court Law. The People, v. G.R.

The order is affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

³⁹ Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to art. VI, § 6 of the California Constitution.

⁴⁰ Retired Associate Justice of Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

⁴¹ Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

Friday, January 30, 2009

Division One

A118187 – The People, v. Joe Manuel Gonzales.

The judgment is affirmed. Marchiano, P.J., We Concur: Margulies, J., Flinn, J.⁴² (Not for Publication.)

Division Two

A120896 – The People, v. Trown Green.

The order of dismissal is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A121829 – In re L.M., a Person Coming Under the Juvenile Court Law. The People, v. L.M.

The dispositional order is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

A120881 – State Farm Mutual Automobile Insurance Company, v. Susan Ranft et al.

The judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

A120965 – In re C.M., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department, v. S.B.

The orders denying the section 388 petition and terminating parental rights are affirmed. Siggins, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A121753 – The People, v. Kenneth Scott Moeller.

The orders are affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

⁴² Retired judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, January 30, 2009(Continued)

A122314 – The People, v. Edgardo Antonio Cuellar.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A121854 – The People, v. John Poland.

The appeal is dismissed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A119755 – The people, v. Jerome Franz Gonzalez.

The order recommitting Gonzalez as a sexually violent predator is affirmed. McGuiness, P.J., We Concur: Pollak, J., Siggins, J. (Not for Publication.)

Division Four

A121438 – The People, v. Travis Terrell Smith.

We affirm the judgment of conviction and direct that the abstract of judgment be corrected as set forth above. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A122161 – In re A.M., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau, v. Carl M.

The order of the juvenile court terminating appellant's parental rights is conditionally reversed and the matter is remanded to the juvenile court with directions to order the Bureau to provide proper notice of the proceedings under the ICWA. If, after receiving sufficient notice, no tribe indicates that the child falls within the meaning of ICWA, then the juvenile court shall reinstate the order terminating parental rights. Ruvolo, P.J., We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A121507 – The People, v. Lawrence Clayton Jelks.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J. (Not for Publication.)

A118803 – The People, v. Robert A. Girard.

Friday, January 30, 2009(Continued)

The judgment is affirmed. Jones, P.J., We Concur: Needham, J., Stevens, J.⁴³ (Not for Publication.)

A121835 – In re X.H., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. D.H.

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A119925 – The People, v. Gene Leanne Avala.

The judgment of conviction is affirmed. Jones, P.J., We Concur: Simons, J., Stevens, J.⁴⁴ (Not for Publication.)

⁴³ Retired Associate Justice of the Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

⁴⁴ Retired Associate Justice of the Court of Appeal, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.